

Supreme Court of Kentucky

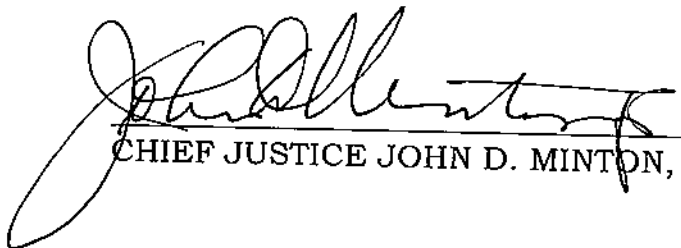
ORDER

**IN RE: ORDER APPROVING AMENDMENTS TO RULE 2.1 AND 2.5 OF
THE RULES OF COURT PRACTICE AND PROCEDURE,
DOMESTIC RELATIONS RULES FOR THE 40TH JUDICIAL
CIRCUIT, CLINTON, CUMBERLAND, AND MONROE COUNTIES**

Upon recommendation of the Circuit Judge of the 40th Judicial Circuit,
and being otherwise sufficiently advised,

The Amendments to Rule 2.1 and Rule 2.5 of the Rules of Court Practice
and Procedure, Domestic Relations Rules, for the 40th Judicial Circuit,
Clinton, Cumberland, and Monroe counties, are hereby approved. This order
shall be effective as of the date of this Order, and shall remain in effect until
further orders of this court.

Entered this the 12th day of February 2015.


CHIEF JUSTICE JOHN D. MINTON, JR.

**AMENDMENT OF RULES OF COURT PRACTICE AND PROCEDURE, DOMESTIC
RELATIONS RULES, FOR THE 40TH JUDICIAL CIRCUIT, CLINTON,
CUMBERLAND AND MONROE COUNTIES**


The Domestic Relations Rules ("DRR") for the 40th Judicial Circuit having been adopted by the Circuit Court of the 40th Judicial Circuit; the DRR having been approved by the Kentucky Supreme Court on August 11, 2014; the Circuit Judge of the 40th Judicial Circuit having adopted a change to DR Rule 2.1; upon approval by the Kentucky Supreme Court and in accordance with SCR 1.040, DR Rule 2.1 is amended to provide as follows:

2.1 Except for legal holidays, and unless otherwise ordered by the Court, the Motion hours of the Domestic Relations Commissioner shall be as follows:

Clinton County:	2 nd Thursday of each month	To be heard at 9:00 a.m.
Monroe County:	3 rd Thursday of each month	To be heard at 9:00 a.m.
Cumberland County:	4 th Thursday of each month	To be heard at 9:00 a.m.

All other adopted Domestic Relations Rules for the 40th Judicial Circuit shall remain in full force and effect.

Date this 4~~th~~ day of September, 2014.



DAVID L. WILLIAMS, JUDGE
40th Judicial Circuit

**AMENDMENT OF RULES OF COURT PRACTICE AND PROCEDURE, DOMESTIC
RELATIONS RULES, FOR THE 40TH JUDICIAL CIRCUIT, CLINTON,
CUMBERLAND AND MONROE COUNTIES**

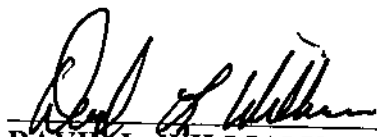
The Domestic Relations Rules ("DRR") for the 40th Judicial Circuit having been adopted by the Circuit Court of the 40th Judicial Circuit; the DRR having been approved by the Kentucky Supreme Court on August 11, 2014; the Circuit Judge of the 40th Judicial Circuit having adopted a change to DR Rule 2.5; upon approval by the Kentucky Supreme Court and in accordance with SCR 1.040, DR Rule 2.5 is amended to provide as follows:

2.5 All motions for a party to show cause why he/she should not be held in contempt of court of violation of a domestic relations order or exceptions to the Domestic Relations Commissioner rulings shall be brought directly before the Circuit Judge for hearing during a regular motion hour.

Clinton County:	2 nd Thursday of each month	Contact Circuit Clerk for time
Monroe County:	3 rd Thursday of each month	Contact Circuit Clerk for time
Cumberland County:	4 th Thursday of each month	Contact Circuit Clerk for time

All other adopted Domestic Relations Rules for the 40th Judicial Circuit shall remain in full force and effect.

Date this 4~~th~~ day of September, 2014.



DAVID L. WILLIAMS, JUDGE
40th Judicial Circuit

Supreme Court of Kentucky

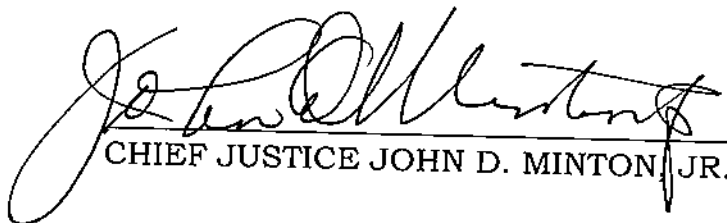
ORDER

IN RE: ORDER APPROVING AMENDMENT TO APPENDIX 1: DOMESTIC VIOLENCE PROTOCOL SECTION II, SUBSECTION F OF THE RULES OF COURT PRACTICE AND PROCEDURE, DOMESTIC RELATIONS RULES FOR THE 40TH JUDICIAL CIRCUIT, CLINTON, CUMBERLAND, AND MONROE COUNTIES

Upon recommendation of the Circuit Judge of the 40th Judicial Circuit, and being otherwise sufficiently advised,

The Amendment to Appendix 1: Domestic Violence Protocol Section II, Subsection F, of the Rules of Court Practice and Procedure, Domestic Relations Rules, for the 40th Judicial Circuit, Clinton, Cumberland, and Monroe counties, are hereby approved. This order shall be effective as of the date of this Order, and shall remain in effect until further orders of this court.

Entered this the 12th day of February 2015.


CHIEF JUSTICE JOHN D. MINTON, JR.

**AMENDMENT OF RULES OF COURT PRACTICE AND PROCEDURE, DOMESTIC
RELATIONS RULES, FOR THE 40TH JUDICIAL CIRCUIT, CLINTON,
CUMBERLAND AND MONROE COUNTIES**

The Domestic Relations Rules ("DRR") for the 40th Judicial Circuit having been adopted by the Circuit Court of the 40th Judicial Circuit; the DRR having been approved by the Kentucky Supreme Court on August 11, 2014; the Circuit Judge of the 40th Judicial Circuit having adopted a change to DRR Appendix 1: Domestic Violence Protocol Section II, Subsection F; upon approval by the Kentucky Supreme Court and in accordance with SCR 1.040, DRR Appendix 1: Domestic Violence Protocol Section II, Subsection F is amended to provide as follows:

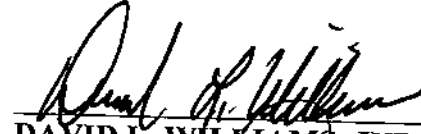
F. The scheduled for domestic violence hearings is as follows:

Domestic violence hearings will be heard by the District Judge, or the Circuit Judge when a motion/petition is filed in an action for dissolution or child custody consistent with Section I.C. of this Protocol above, during a regular motion hour as set forth below (and at such other times as needed to accommodate the 14-day requirement under KRS 403.745):

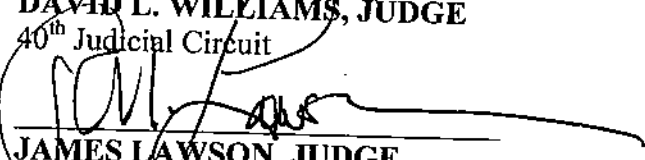
Clinton District Court:	Four (4) motion days each month Contact Circuit Clerk for time
Clinton Circuit Court:	2 nd Thursday of each month Contact Circuit Clerk for time
Monroe District Court:	Every Tuesday of each month Contact Circuit Clerk for time
Monroe Circuit Court:	3 rd Thursday of each month Contact Circuit Clerk for time
Cumberland District Court	1 st and 3 rd Wednesdays of each month Contact Circuit Clerk for time
Cumberland Circuit Court	4 th Thursday of each month Contact Circuit Clerk for time

All other adopted Domestic Relations Rules for the 40th Judicial Circuit shall remain in full force and effect.


Date this 4 day of September, 2014.



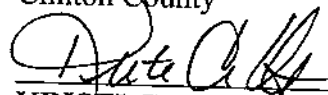
DAVID L. WILLIAMS, JUDGE
40th Judicial Circuit



JAMES LAWSON, JUDGE
Division II, 40th Judicial District
Clinton County



SCARLETT LATHAM, JUDGE
Division I, 40th Judicial District
Clinton County



KRISTI CASTILLO, JUDGE
60th Judicial District
Cumberland and Monroe Counties

Supreme Court of Kentucky

ORDER

**IN RE: ORDER APPROVING THE RULES OF COURT PRACTICE AND
PROCEDURE, DOMESTIC RELATIONS RULES, FOR THE 40TH
JUDICIAL CIRCUIT, CLINTON, CUMBERLAND, AND MONROE
COUNTIES**

Upon recommendation of the Circuit Judge of the 40th Judicial Circuit,
and being otherwise sufficiently advised,

The Rules of Court Practice and Procedure, Domestic Relations Rules, for
the 40th Judicial Circuit, Clinton, Cumberland, and Monroe counties, are
hereby approved. This order shall be effective as of the date of this Order, and
shall remain in effect until further orders of this court.

Entered this the 11th day of August 2014.


CHIEF JUSTICE JOHN D. MINTON, JR.

**COMMONWEALTH OF KENTUCKY
40TH JUDICIAL CIRCUIT**

DOMESTIC RELATIONS RULES

**CLINTON CIRCUIT COURT
CUMBERLAND CIRCUIT COURT
MONROE CIRCUIT COURT**

**JUDGE – HON. DAVID L. WILLIAMS
JUDGE NUMBER –**

**SECRETARY – JENNIFER STORIE
LAW CLERK – MEGAN THOMPSON**

**PHONE – (270) 864-5192
FAX – (270) 864-1418
EMAIL – DavidWilliams@kycourt.net
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Burkesville, KY 42717

CLINTON CIRCUIT CLERK-

**JAKE STATON
100 S. Cross Street
Albany, KY 42602
(606) 387-6424 – Phone
(606) 387-8154 – Fax**

CUMBERLAND CIRCUIT CLERK -

**NANCY BREWINGTON
P.O. Box 395
Burkesville, KY 42717
(270) 864-2611 – Phone
(270) 864-1227 – Fax**

MONROE CIRCUIT CLERK -

**JOYCE EMBERTON
P.O. Box 245
Tompkinsville, KY 42167
(270) 487-8831 – Phone
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DR Rule 1 – INTRODUCTION / ADMINISTRATIVE PROCEDURES

1.1 The following Domestic Relations Rules shall govern all domestic relations proceedings in the 40th Judicial Circuit unless the same conflict with any statute or other law of the United States or Commonwealth of Kentucky, at any time legally adopted, in which event any such statute, law, rule or order shall at all times prevail. These rules shall supplement the Kentucky Family Court Rules of Procedure and Practice (FCRPP). All local domestic relations rules presently in effect in the 40th Judicial Circuit are hereby repealed.

1.2 The following rules shall become effective upon approval by the Chief Justice of the Kentucky Supreme Court.

1.3 These rules may be cited as "DR 40 Rule."

DR Rule 2 – COURT SCHEDULING/MOTION HOUR/PROCEDURES FOR FILING

2.1 Except for legal holidays, and unless otherwise ordered by the Court, the Motion hours of the Domestic Relations Commissioner shall be as follows:

Clinton County: 1st and 3rd Mondays of each month To be heard at 9:00 a.m.
(with the exception of holidays,
when the issues will be heard on the
following Tuesday)

Monroe County: 3rd Wednesday of each month To be heard at 9:00 a.m.

Cumberland County: 4th Thursday of each month To be heard at 9:00 a.m.
(with the exception of November,
when the issues will be heard on the
3rd Thursday of the month)

2.2 The Circuit Clerk of each county shall keep a Motion Docket, and shall docket in order all motions assigned for hearing. The Movant shall advise the Clerk the amount of time

needed to hear the motion. Should any attorney anticipate that a hearing shall exceed 30 minutes the attorney shall advise the Commissioner and the Commissioner shall confer with the parties to set a date certain for such hearings. If it appears that any motion scheduled on the regular motion days shall exceed 30 minutes in length, the Commissioner may reschedule or continue such hearing to a later date.

2.3 All motions to be heard at motion hour on the appropriate motion day shall be filed (the original motion) and served on opposing counsel by delivery no later than closing time in the Clerk's Office five (5) business days immediately preceding the Rule Day upon which the motion is to be heard. If service is by mail, an additional three (3) days' notice shall be required.

2.4 If sixty (60) days have expired since the date of entering the last order or judgment, any notice shall be served on both the opposing attorney and the client party at his or her last known address.

2.5 All motions for a party to show cause why he/she should not be held in contempt of court of violation of a domestic relations order or exceptions to the Domestic Relations Commissioner rulings shall be brought directly before the Circuit Judge for hearing during a regular motion hour.

Clinton County:	1 st and 3 rd Mondays of each month (with the exception of holidays, when the issues will be heard on the following Tuesday)	To be heard at 3:00 p.m.
Monroe County:	3 rd Wednesday of each month	To be heard at 3:00 p.m.
Cumberland County:	4 th Thursday of each month (with the exception of November, when the issues will be heard on the 3 rd Thursday of the month)	To be heard at 3:00 p.m.

2.6 The attorneys filing motions to be heard before the Circuit Judge shall inform the Circuit Clerk of the time required for said motions. If the motion requires more than thirty (30) minutes, the attorneys shall contact the Circuit Judge's office or the Domestic Relations Commissioner's office for a different time to hear the motion or motions.

DR Rule 3 – ADOPTION / TERMINATION OF PARENTAL RIGHTS

3.1 Pursuant to FCRPP 32(2)(a), a separate petition shall be filed for each child in a Termination of Parental Rights case and individual case numbers shall be assigned by the Clerk of the Court in proceedings filed pursuant to KRS Chapters 199 and 625. Pursuant to FCRPP 32(2)(b), every petition in an adoption or termination of parental rights shall include the following:

- A. The case number of any underlying juvenile case, specifically dependency, neglect or abuse or termination of parental rights cases); and
- B. The name of any guardian *ad litem* previously appointed.

3.2 Pursuant to FCRPP 33, no request for final hearing shall be made prior to the filing of the state child protective service agency report pursuant to KRS 199.510 and the guardian *ad litem* report, if any, pursuant to KRS 199.515. In the event of an uncontested adoption, a hearing shall be held within thirty (30) days of the filing of a request for a final hearing. A continuance of any final hearing date shall not be granted except upon good cause shown. Annual permanency review hearings shall continue to be held in any dependency, neglect and abuse action as required by FCRPP 23 until finalization of the adoption.

3.3 Pursuant to FCRPP 34, immediately upon the filing of any petition for involuntary termination of parental rights, the petitioner shall obtain a pretrial date. In the event

the parents are not served prior to the pretrial date, the pretrial date shall be used as a case status review to expedite the proceeding. A continuance of any final hearing date shall not be granted except upon good cause shown. The annual permanency review hearings shall continue to be held in any dependency, neglect and abuse action as required by FCRPP 23 until permanency is achieved.

3.4 Pursuant to FCRPP 35, the Clerk of the Court shall send two (2) certified copies of the order terminating parental rights to the state child protective agency. The prospective adoptive parent or his or her attorney, if any, may obtain a certified copy of the order terminating parental rights from the state child protective agency to attach to the adoption petition.

3.5 Pursuant to FCRPP 36, if an order terminating parental rights is entered, a copy of the order shall also be certified to the record in the underlying dependency, neglect and abuse case which shall be identified in the order. The clerk of the court in the underlying dependency, neglect and abuse case shall docket the matter for a review hearing within ninety (90) days from the date of the entry of the order of termination of parental rights and shall docket the matter as directed by the court at least annually thereafter until permanency is achieved.

DR Rule 4 – DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY

4.1 Domestic violence cases shall be conducted according to the Local Domestic Violence Protocol and 24 Hour Accessibility Policy located in Appendix 1 of these rules and incorporated by reference as if set out in full.

4.2 Pursuant to FCRPP 11(2), when the Court conducts contempt proceedings in domestic violence actions, the party subject to contempt shall be represented by counsel, unless waived, and an attorney shall be appointed by the Court if the party qualifies as an indigent.

DR Rule 5 - DOMESTIC RELATIONS PRACTICE

5.1 DOMESTIC RELATIONS COMMISSIONER

A. All proceedings for dissolution of marriage shall be heard by the Circuit Judge or Domestic Relations Commissioner, who shall possess the qualifications required by FCRPP 4(2).

B. The Circuit Judge and the Commissioner shall hear evidence concerning contested and uncontested matters arising from actions for dissolution of marriage, child custody, support and maintenance under KRS Chapter 403, except those noted in Rule 2.5.

C. All proceedings for adoption, termination of parental rights, contempt proceedings, and restraining orders or injunctions, shall be heard exclusively by the Circuit Judge.

D. The Commissioner shall have those powers and authorities in the conduct of hearings as set out in FCRPP 4.

E. Upon the filing of any domestic relations action, the case will automatically be assigned to the Circuit Judge or the Commissioner.

F. All matters before the Domestic Relations Commissioner shall be heard orally unless one of the parties, by the proper motion, requests that some portion of the testimony be presented by deposition.

G. Discovery shall be permitted and shall proceed as set forth in the Kentucky Rules of Civil Procedure relating to civil actions, generally, and the FCRPP.

H. Unless otherwise ordered, the official record of all proceedings of the Domestic Relations Commissioner shall be by video tape recording as authorized by FCRPP 4(3).

I. Except for good cause shown both parties and their attorneys shall be present at the final hearing.

5.2 DOMESTIC RELATIONS COMMISSIONER FEES

A. Pursuant to FCRPP 4(5), for any case assigned, the domestic relations commissioner shall receive a fee of \$60 per hour, assessed at a rate of \$15.00 for each quarter hour or part thereof. Such fees shall be paid through the office of circuit court clerk to the commissioner and shall be due on the fifth working day following the conclusion of the hearing. No more than \$600.00 shall be assessed in any case regardless of the number and length of hearings unless recommended by the circuit judge and approved by the Chief Justice for extraordinary circumstances shown. If a case is reopened additional fees totaling not more than \$200.00 may be assessed. No more than \$15.00 shall be assessed in any uncontested divorce.

B. Pursuant to FCRPP 4(7), all Domestic Relations Commissioners shall be limited in their total personal compensation derived from fees to not more than \$48,000 per annum unless approved by the Chief Justice.

C. No fee shall be assessed for motions to set contested hearings or to withdraw as attorney of record.

5.3 SUBMISSION OF CASE TO DOMESTIC RELATIONS COMMISSIONER

Once a case is submitted to the Domestic Relations Commissioner for final disposition, the Commissioner shall file a report within ninety (90) days of the conclusion of the hearing pursuant to FCRPP 4(3) and KRS 454.350 (2)

5.4 PROCEDURE UPON THE PROPOSED FINDINGS AND RECOMMENDATION OF THE DOMESTIC RELATIONS COMMISSIONER

A. Upon the final hearing of a case or upon the hearing of any motion which requires Findings of Fact and Conclusions of Law, the Commissioner shall prepare and submit to the Circuit Judge his proposed Findings of Fact (unless the Commissioner's Findings of Fact are stipulated by both parties in which case only questions of law will be considered by the Circuit Judge), Conclusions of Law and Order.

B. A copy of the proposed Findings of Fact, Conclusions of Law and Order will be furnished to all parties involved in the matter who will then have ten (10) days after being served with notice of the filing of the Commissioner's recommendation in which to file exceptions to the proposed Findings of Fact, Conclusions of Law and Order with the Court. At the hearing on the exceptions, the Court may, in its discretion, confirm, alter or amend the report in any respect or it may return same to the Commissioner for additional proof and/or recommendations. Pursuant to FCRPP 4(4)(d), if no exceptions are filed within the time allowed, the Court will adopt the proposed or modified Findings of Fact, Conclusions of Law and Decree of Dissolution within twenty (20) days of submission. If exceptions have been filed, entry of the final decree shall occur within ten (10) days of disposition of the exceptions.

- C. Upon the filing of exceptions, any opposing party shall have no less than three (3) days to respond by filing additional exceptions.
- D. All Orders pertaining to support shall be effective upon the entry of the Order by the Circuit Judge.
- E. Exceptions shall be heard by the Court on the record before the Domestic Relations Commissioner and argument of counsel. No new evidence shall be heard without permission of the Court. Any party filing exceptions to rulings of the Domestic Relations Commissioner shall specify the date wherein the disputed testimony was heard and shall refer to the tape counter number where the disputed evidence may be found. Failure to do so shall constitute grounds for overruling the exceptions.
- F. The normal ten (10) day exception period to serve exceptions pursuant to FCRPP 4(4)(a) may be waived by the parties and shall be deemed to be waived on all agreed orders.
- G. Any order prepared at the direction of the Commissioner shall reflect the name of the preparer and state that the order was prepared at the request and under the direction of the Commissioner or the Court, as the case may be.

5.5 UNCONTESTED MATTERS

- A. Parties may furnish to the Domestic Relations Commissioner for review a recommended Findings of Fact, Conclusions of law, and a Decree of Dissolution. It is then the duty of the Domestic Relations Commissioner to adopt, amend or prepare the Findings of Fact, Conclusions of Law and a Decree of Dissolution.
- B. A signed property settlement agreement is necessary for a proceeding to be classified as "uncontested".

C. The normal ten (10) day exception period applicable to the Commissioner's recommendations to the Circuit Judge authorized by FCRPP 4(4)(a) may be waived by the parties in uncontested matters.

5.6 CONTESTED MATTERS

A. Pursuant to FCRPP 2(3), the AOC-238, Preliminary Verified Disclosure Statement, is adopted by this Court and shall be filed in every contested divorce proceeding in accordance with the following:

1. The financial disclosure statement of the Petitioner and the Respondent shall be exchanged between the parties within forty-five (45) days of service of the petition on the respondent, and objections thereto shall be exchanged twenty (20) days thereafter, but the disclosures shall not be filed in the record unless ordered by the Court.

2. Without limiting a party's relief under CR 65, upon notice and opportunity to be heard, the court may enter a status quo order regarding disposition of the marital estate. A status quo order may include but not be limited to the guidelines established in FCRPP 2(5)(a) and (b).

3. All motions for temporary maintenance must be accompanied by movant's income and expense schedule with supporting documentation as mandated by FCRPP 5(1). The non-moving party must file his or her income and expense schedule no later than the time set for the hearing on the motion in compliance with FCRPP 3(2). Motions to establish or modify permanent maintenance must comply with the requirements of FCRPP 5(3).

- B. Counsel shall stipulate as many facts as possible prior to any hearing. Furthermore, counsel are encouraged to provide joint child support worksheets presenting evidence as to the existence of any exception to the utilization of the guidelines.

5.7 PRELIMINARY MATTERS IN DISSOLUTIONS

- A. All original pleadings in a dissolution action shall include pleadings identified in FCRPP 2(1)(a) through (i), if applicable.
- B. Pursuant to FCRPP 2(8), any ex parte motion shall be accompanied by a supporting affidavit sufficient to state grounds for injunctive relief, and if granted, shall be set for hearing with all parties at the earliest available date. Any pendent lite motions shall be served on the opposing party and set for a hearing before the court unless otherwise agreed to by the parties.

5.8 OBTAINING A DECREE OF DISSOLUTION

- A. Parties who reach an agreement on all issues may obtain a decree of dissolution without a trial by filing a motion or agreed order to submit for decree of dissolution of marriage pursuant to FCRPP 3(1)(a), which should include the following:
- (i) The date of marriage and separation;
 - (ii) The date the petition for dissolution was filed;
 - (iii) The date the respondent was served or filed an entry of appearance;
 - (iv) The dates the verified disclosures were filed unless otherwise waived by the court;
 - (v) If the parties have minor children of the marriage, copies of certificates of completion of the Families in Transition (F.I.T.) class by each party;
 - (vi) A copy of the separation agreement, if any;

- (vii) A written deposition executed under oath by either party setting forth testimony required at a hearing;
- (viii) A written waiver of the right to a hearing executed by both parties;
- (ix) An affidavit stating that the parties have lived apart for sixty (60) days, and that no material change in circumstances has occurred since the taking of the proof; and
- (x) A request for name restoration, if any, in writing.

Original copies shall be filed with the Clerk in the county of origin. A decree shall not be final until the original is signed by the Court and entered by the Clerk. FCRPP 3(1)(b). If the parties reach an agreement on individual issues short of settling the entire case, the agreement, signed by both parties, may be submitted to the Court for approval and entry. FCRPP 3(1)(c).

- B. In all cases of default, the provisions of FCRPP 3(2) shall apply.
- C. If the parties do not reach an agreement on any or all issues, a trial shall be held, on motion, as set by the Court. Pursuant to FCRPP 3(3), the AOC-239, Final Verified Disclosure Statement, is adopted by this Court and shall be filed in the record no later than five (5) days prior to the trial if property matters are in dispute; or the parties may file an affidavit that there are no changes in circumstance since the completion of the AOC-238, Preliminary Verified Disclosure Statement, if filed., A copy of this disclosure statement, or the affidavit if the AOC-238 was filed and there is no change in circumstance since it was filed, together with any supporting documentation, shall be provided to the opposing party's attorney fifteen (15) days prior to trial unless otherwise ordered by the court. FCRPP 3(3)(c).

C. Pursuant to FCRPP 3(5), a fee of \$50.00 shall be paid by the movant in domestic relations cases reopened after six (6) months from the entry of the decree for the purpose of modifying the decree. This does not include motions in 42 U.S.C. Title IV-D cases for child support enforcement. The Clerk shall collect any fee upon the filing of the motion, unless the movant files a motion to proceed in forma pauperis.

5.9 MAINTENANCE

A. A motion for temporary maintenance shall comply with the requirements of FCRPP 5(1) and (2).

B. A motion to establish or modify permanent maintenance shall comply with the requirements of FCRPP 5(3).

5.10 CHILD SUPPORT

A. Motions to establish or modify child support must be filed in accordance with FCRPP 9 and be accompanied by the income and expense documentation specifically mandated by FCRPP 9(4); and, the responding party must similarly file this financial information in Court at least 24 hours prior to the hearing pursuant to FCRPP 9(4)(b). Further, all parties are to exchange said information 10 days prior to the hearing in accordance with FCRPP 9(4)(c).

B. The worksheet for child support obligation forms shall be attached to all separation agreements in which child support is determined and all agreed orders modifying child support. In addition, all separation agreements fixing child support and agreed orders modifying child support shall contain a reservation to the effect that "The parties are aware of the amount of child support established by the Kentucky Child Support Guidelines."

C. Nothing in these rules shall preclude parties who are fully informed about the child support guidelines from agreeing to child support inconsistent with the guidelines.

5.11 CUSTODY

(A) Unless otherwise ordered by the court, in any action in which the permanent custody or time-sharing of the child(ren) is in issue, each party shall, not less than fourteen (14) days prior to the day set for hearing, provide the other party(ies) with a list of the names and addresses of every person and a short statement of the subject of their testimony, other than a parent or the child(ren) of the parents, expected to be called as a witness, as well as a list of exhibits to be entered as required by FCRPP 7(1).

(B) Relocation. FCRPP 7(2).

- (i) Before a joint custodian seeks to relocate, written notice shall be filed with the court and notice shall be served on the non-relocating joint custodian. Either party may file a motion for change of custody or time-sharing within twenty (20) days of service of the notice if the custodians are not in agreement; or, the parties shall file an agreed order if the time sharing arrangement is modified by agreement.
- (ii) Before a sole custodian seeks to relocate, written notice shall be filed with the court and notice shall be served on the non-custodial parent. If the court order is affected by the relocation, the non-custodial parent may file a motion contesting the change in visitation within twenty (20) days of service of the notice.

5.12 VISITATION

The Time-Sharing Visitation Guidelines are attached in Appendix 2 and incorporated herein by reference as authorized by FCRPP 8(2). These serve as a model and are only a basic

guideline for the parties and parties are encouraged to reach an agreement upon timesharing/visitation that is in the best interests of their child. These Guidelines are not a default schedule for the parties or the Court when the parties are unable to reach an agreement. The court will continue to determine visitation on a case-by-case basis when there is no agreement of the parties.

5.13 FAMILIES IN TRANSITION (F.I.T.)

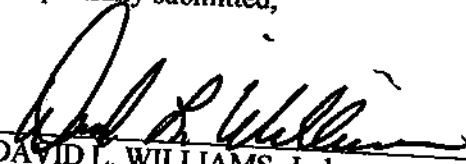
- A. If there are minor children of a marriage and the Court orders parties to participate in the Families in Transition (F.I.T.) program, a proceeding for dissolution of marriage shall not be assigned for final hearing until the parties have attended and participated in said program. If ordered to complete the Families in Transition (F.I.T.) program, the parties must attend a minimum of six (6) hours of classes. Classes are to be held on the 1st and 2nd Monday of each month from 6:00 p.m. to 9:00 p.m. Saturday classes are also available. Saturday classes are to be held between the 1st and 2nd Monday and are from 9:00 a.m. to 4:00 p.m.
- B. If a party refuses or fails to attend the Families in Transition program, the Court may make such orders in regard to the failure or refusal as are just, including but not limited to the following (i) an order refusing to assign a trial date until the party requesting the trial date attends the program; (ii) an order declining to set or enforce permanent visitation rights for the disobedient party until the disobedient party attends the program; (iii) an order reserving the granting or approval of final custody; and (iv) in lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of Court the failure to obey an order to attend the clinic.

**DR Rule 6 – MISCELLANEOUS RULES RELATING TO DOMESTIC RELATIONS
PRACTICE**

There are currently no Miscellaneous Rules Relating to Domestic Relations Practice in the 40th Judicial Circuit.

These rules are to become effective upon certification and approval of the Chief Justice of Kentucky Supreme Court of the Commonwealth of Kentucky.

Respectfully submitted,



DAVID L. WILLIAMS, Judge
40th Judicial Circuit

APPENDIX 1: DOMESTIC VIOLENCE PROTOCOL

TWENTY-FOUR HOUR ACCESSIBILITY TO EMERGENCY PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION DOMESTIC VIOLENCE PROTOCOL 40TH JUDICIAL CIRCUIT AND 40TH JUDICIAL DISTRICT (CLINTON COUNTY) AND 60TH JUDICIAL DISTRICT (MONROE AND CUMBERLAND COUNTIES)

Pursuant to KRS 403.735, and in compliance with Family Court Rules of Procedure and Practice (FCRPP) Section IV, this local domestic violence protocol is established to ensure twenty-four hour accessibility to emergency protective orders and to establish written procedures for domestic violence matters in which there may be joint jurisdiction between the circuit/family and district courts.

I. Uniform Protocol for Processing Cases

- A. Circuit court clerks shall process domestic violence cases in accordance with the procedures set forth in the "Domestic Violence Proceedings" section of the Kentucky Circuit Court Clerk's Manual.
- B. All cases will be assigned a "D" case number with the appropriate trailer number within the court case management system and may not be consolidated with any other case type.
- C. Domestic violence matters may be reassigned from the district court division to circuit court when there is a dissolution/custody proceeding pending. In the exercise of joint jurisdiction between the District and Circuit Courts, as set forth in KRS 403.735(3)(c), and consistent with KRS 403.725(4), if a family member files an action for dissolution of marriage or child custody in Circuit Court, the Circuit Court shall have jurisdiction to issue protective orders upon the filing of a verified motion therein either at the commencement or during the pendency of the action in Circuit Court pursuant to the provisions of KRS 403.730 to 403.785. Any verified motion shall be filed on the AOC form as a petition and shall retain a domestic violence "D" case file number pursuant to FCRPP 13(4).
- D. No jurisdiction shall adopt a blanket "no-drop" policy. Domestic violence cases are civil matters within the purview of CR 41.01.
- E. Domestic violence cases may be reassigned or transferred to another circuit, at the discretion of the judge, when there is a pending dissolution or child custody proceeding pending in the other circuit. Consistent with FCRPP 12, when a case is transferred to another circuit due to a pending dissolution or custody matter, an emergency protective order shall continue and the summons shall be reissued by the initiating court, pursuant to KRS 403.740(4), for a period not to exceed fourteen days if service has not been made on the adverse party by the date of transfer, or as the

court determines is necessary for the protection of the petitioner. Thereafter, reissuance of the summons shall occur as needed in the court of transfer.

II. Twenty-four Hour Accessibility

- A. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **during** regular business hours:

The Clinton County Circuit Court Clerk's Office
The Cumberland County Circuit Court Clerk's Office
The Monroe County Circuit Court Clerk's Office
Any law enforcement officer located in the Circuit or District

- B. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **after** regular business hours and weekends:

The Clinton County Circuit Court Clerk's Office
The Cumberland County Circuit Court Clerk's Office
The Monroe County Circuit Court Clerk's Office
Any law enforcement officer located in the Circuit or District

- C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:

Clinton County:

A District Judge within the district and if unavailable then to the Circuit Judge, and if all of the aforesaid are unavailable to any available Judge in other districts or circuits.

Cumberland County:

The District Judge, and if unavailable then to the Circuit Judge and if all of the aforesaid are unavailable to any available Judge in other districts or circuits.

Monroe County:

The District Judge, and if unavailable to the Trial Commissioner, and if unavailable then to the Circuit Judge, and if all of the aforesaid are unavailable to any available Judge in other districts or circuits.

- D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to:

Clinton County: A District Judge within the district, and if unavailable then to the Circuit Judge, and if all of the aforesaid are unavailable to any available Judge in other districts or circuits.

Cumberland County:

The District Judge, and if unavailable then to the Circuit Judge, and if all of the aforesaid are unavailable to any available Judge in other districts or circuits.

Monroe County:

The District Judge, and if unavailable to the Trial Commissioner, and if unavailable then to the Circuit Judge, and if all of the aforesaid are unavailable to any available Judge in other districts or circuits.

E. Petitions will be reviewed within an hour of presentation to a judge or trial commissioner unless it is impossible due to the unavailability of a judge or trial commissioner.

F. The schedule for domestic violence hearings is as follows:

Domestic violence hearings will be heard by the District Judge, or the Circuit Judge when a motion/petition is filed in an action for dissolution or child custody consistent with Section I.C. of this Protocol above, during a regular motion hour as set forth below (and at such other times as needed to accommodate the 14-day requirement under KRS 403.745):

Clinton District Court:	Four (4) motion days each month Contact Circuit Clerk for time
Clinton Circuit Court:	1 st and 3 rd Mondays of each month Contact Circuit Clerk for time
Monroe District Court	Every Tuesday of each month Contact Circuit Clerk for time
Monroe Circuit Court	Every 3 rd Wednesday of each month Contact Circuit Clerk for time
Cumberland District Court	1 st and 3 rd Wednesday of each month Contact Circuit Clerk for time
Cumberland Circuit Court	4 th Thursday of each month Contact Circuit Clerk for time

The attorneys filing motions relating to domestic violence, which are to be heard before the Circuit Judge shall inform the Circuit Clerk of the time required for said motions. If the motion requires more than thirty (30) minutes, the attorneys shall contact the Circuit Judge's office for a different time to hear the motion or motions.

III. Contempt Proceedings

A. Pursuant to KRS 403.760, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive.

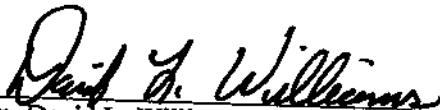
B. Petitioners seeking to initiate contempt proceedings should contact:

The Office of the Circuit Court Clerk in the county where the case is filed who will schedule a time for the hearing on the contempt motion.

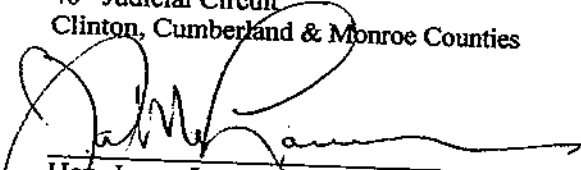
C. No petitioner may be held in contempt for failing to appear at a domestic violence hearing or to prosecute a criminal violation of a protective order. Failure to appear may result in a denial of the petition pursuant to FCRPP 11(1).

All general orders, forms, policies and procedures relating to domestic violence within the judicial circuit are attached to this protocol and incorporated by reference.

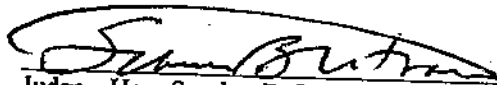
The above protocol is adopted by all judges in the circuit/district:



Hon. David L. Williams,
40th Judicial Circuit
Clinton, Cumberland & Monroe Counties



Hon. James Lawson, Judge
Division II, 40th Judicial District
Clinton County



Judge Hon. Scarlett B. Latham, Judge
Division I, 40th Judicial District
Clinton County



Hon. Kristi Renee Castillo, Judge
60th Judicial District
Cumberland and Monroe Counties

APPENDIX 2: TIME-SHARING/VISITATION GUIDELINES

TIME-SHARING / VISITATION GUIDELINES FOR THE 40TH JUDICIAL CIRCUIT CLINTON, CUMBERLAND AND MONROE COUNTIES

The following schedules are suggested as **guidelines** for the parents and the court in establishing time-sharing/visitation schedules. Each case will present unique facts or circumstances which shall be considered by the court in establishing a time-sharing/visitation schedule and **the final schedule established by the court or agreed to by the parents may or may not be what these guidelines suggest.**

- (a) The non-residential parent shall be entitled to have the child(ren) on alternate weekends from Friday at 6:00 p.m. until Sunday at 6:00 p.m.
- (b) The non-residential parent shall be entitled to have the child(ren) for one midweek overnight visit. Midweek overnight visits will begin at 5:30 p.m. on the day of visitation and will end at 8:00 a.m. the following morning. The non-custodial parent should be responsible for delivering the child(ren) to school, child care, or other location as specifically ordered by the Court or agreed to by the parents.
- (c) Times in a time-sharing/visitation schedule should be set in the time zone where the child primarily resides.
- (d) During even-numbered years, the residential parent upon 30 days advance written notice to the non-residential parent shall be entitled to have the child(ren) each year for family vacations which will not be interrupted by (a) and (b) above.
- (e) Holidays
 - i. If a holiday is celebrated on a Monday following a non-residential parent's regularly scheduled time-sharing/visitation, then that parent should be permitted to extend parenting time until 6:00 p.m. on the holiday, unless the parents agree otherwise.
 - ii. For time-sharing/visitation times pertaining to school holidays, whether in a formal school or home-school, the school holidays where the child(ren) primarily resides should apply.
 - iii. Other holidays:
 - 1. During the first full year after divorce/custody proceedings have been filed, the non-residential parent should have time-sharing/visitation scheduled as follows:
 - a) New Year's Day from 8:00 a.m. until 6:00 p.m.
 - b) Independence Day from 8:00 a.m. until 6:00 p.m.
 - b) Thanksgiving, beginning at 6:00 p.m. the day school ends until 3:00 p.m. Thanksgiving Day.

- c) Christmas/Winter Break, beginning at 6:00 p.m. the day school ends until noon on December 25.
- e) Veteran's Day from 8:00 a.m. until 6:00 p.m.
- 2. During the second full year after divorce/custody proceedings have been filed, the non-residential parent should have time-sharing/visitation scheduled as follows:
 - a) Easter from 8:00 a.m. until 6:00 p.m.
 - b) Labor Day from 8:00 a.m. until 6:00 p.m.
 - c) Memorial Day from 8:00 a.m. until 6:00 p.m.
 - d) President's Day from 8:00 a.m. until 6:00 p.m.
- 3. Holidays not listed that are of special interest to the family should be assigned to the nonresidential parent in time amounts similar to those above.
- 4. Holiday time not scheduled above to the non-residential parent exercising time-sharing/visitation should be with the other parent.
- 5. Mother's Day and Father's Day, regardless of any conflict with the above proposed schedule, should be spent with the appropriate parent from 8:00 a.m. until 6:00 p.m.
- 6. Fall Break or Spring Break, as allowed by the child(ren)'s school calendar, should be scheduled for the parent with whom the child(ren) primarily resides in the first full year after the divorce/custody proceedings are filed from 6:00 p.m. the day school ends until 6:00 p.m. the following Friday. If school breaks are longer than one week due to the school schedule, the parent with whom the child(ren) primarily resides should be scheduled for the first half of the break and the other parent should be scheduled for the last half.
- 7. Summer Break should be scheduled to allow the parent exercising time-sharing/visitation a minimum of two (2) periods of two (2) consecutive weeks during the Summer Break. Each parent should provide the time periods he or she desires to the other parent before the end of the school year, or at least sixty (60) days in advance of the requested time. If a child(ren) must attend summer school in order to pass to the next grade, summer time-sharing/visitation should not prevent school time.
- 8. Birthdays: Unless the birthday falls on a regularly scheduled time-sharing/visitation day, the non-custodial parent exercising time-sharing/visitation should be scheduled for birthday time from 5:00 p.m. until 8:00 p.m. If it is a regular day of the non-custodial parent exercising timesharing/visitation where the child(ren) does not primarily reside, the other parent should have birthday time from 5:00 p.m. until 8:00 p.m.
- 9. For each year thereafter, the timesharing/visitation set out above should alternate between the parent with whom the child(ren) primarily resides and the parent exercising time-sharing/visitation.

10. The non-residential parent shall not take the child(ren) on holidays other than those to which the non-residential parent is entitled as described in the above paragraphs, except as otherwise agreed by the parties.
- (f) The child(ren) and/or the residential parent have no duty to wait for the non-residential parent to arrive for more than thirty (30) minutes. If the non-residential parent is more than thirty (30) minutes late for a particular period of time, he/she shall forfeit that period of time. Exception shall be made if, and only if, the tardiness of the non-residential parent is for just cause and the residential parent received both prompt notification and a reasonable estimated arrival time.
 - (g) If the non-residential parent is more than thirty (30) minutes late in returning the child(ren) without calling to make arrangements and without just cause, he/she shall be subject to contempt.
 - (h) Make-up days shall be given, if due to an emergency or illness, the child(ren) or non-residential parent is not available at the scheduled time or if the residential parent denies access to the child(ren) without just cause. All make-up days shall be at the non-residential parent's discretion.
 - (i) If the child(ren) is ill, the parent who has the child(ren) should give 24-hour notice, if possible, to allow for appropriate plans to be made.
 - (j) The parties shall make every effort to consider the child(ren)'s reasonable scheduled school or extracurricular activities in order to serve the best interests of the child(ren).
 - (k) In the event of a conflict, the following is the order of preference:
1st – Holidays, 2nd – Extended Periods, 3rd – weekends, 4th – Midweek days.
 - (l) The non-residential parent should be responsible for timely pick-up of the child(ren) at the beginning of the timesharing/visitation period and returning the child(ren) in a timely manner at the end of the time-sharing/visitation period.
 - (m) The parents should transport the child(ren) in a safe manner, which includes utilizing the appropriate child restraint systems and not driving under the influence of intoxicants.
 - (n) The non-residential parent shall be entitled to access to any and all records related to the child(ren) to the same extent as it legally provided to the residential parent and under the same terms and conditions by which access is provided to the residential parent. The residential parent shall supply the keeper of any medical/school records of the child(ren) with a copy of any custody/visitation order. The residential parent shall supply any other keeper of any records of the child(ren) with a copy of any custody/visitation order upon request of either the non-residential parent or the keeper of the record.

- (o) In the event the child(ren) has an illness which requires medical attention by a physician, the residential parent shall promptly notify the non-residential parent. Elective surgery shall only be performed after consultation with the non-residential parent.
- (p) The non-residential parent shall be entitled to access to student activities relating to the child(ren) to the same extent as is legally provided to the residential parent and under the same terms and conditions by which access is provided to the residential parent. The residential parent shall provide the school with a copy of any custody/visitation order.
- (q) The non-residential parent shall be entitled to access to any day-care center that is, or that in the future may be attended by the child(ren) to the same extent as is legally provided to the residential parent. The non-residential parent shall not remove the child(ren) from day-care premises except during periods of time to which the non-residential parent is otherwise entitled pursuant to any custody/visitation order or except by written agreement of the parties. The residential parent shall provide a copy of any custody/visitation order to the day-care center.
- (r) Either party is to notify the Circuit Court clerk's Office of any change of address.
- (s) Any child who is twelve (12) year of age or older shall have his/her preferences considered in setting and determining time spent with the non-residential parent.
- (t) Except as recited herein, the residential parent shall be entitled to the child(ren) at all other times. The parties are encouraged to arrange such additional time as will provide parents an opportunity to have frequent and continuing contact with the child(ren) consistent with their personal schedules and flexibility is encouraged.
- (u) Each parent should provide the other parent with contact numbers and addresses (unless a domestic violence order is in effect) where the child(ren) can be located during their scheduled time-sharing/visitation time. The residential parent shall allow the non-residential parent frequent and ongoing telephone contact with the child(ren). The non-residential parent shall utilize this time in a reasonable fashion.
- (v) Should the child(ren) have any special needs, the parents shall cooperate with assisting the child and with a custody evaluation at their own expense. The parent shall not be required to attend with each other.
- (w) Should an allegation of domestic violence and/or child abuse arise, this plan will immediately be suspended once the allegations are presented to the Court and will remain suspended until the Court rules on the allegations or one month has passed, whichever occurs first.

Each parent is under an affirmative duty to foster the love and affection of the child for the other parent. Neither parent shall do nor say anything that will interfere with the love and affection of the child for the other parent. Neither parent shall allow third parties to do or say

anything to or in the presence of the child that will interfere with the love and affection of the child for the other parent. In addition to these general duties, neither parent shall:

- a) Have the child deliver money or message from one parent to the other and thus place the child in the middle
- b) Ask the child to keep a secret from the other parent and, in effect, teach the child to lie.
- c) Quiz the child about what is going on at the other parent's home and thus turn the child into a spy.
- d) Say unkind things about the other parent to the child or in the presence of the child.
- e) Try to conduct parental business when exchanging the child for visitation.
- f) Make any threats or start arguments with the other parent when exchanging the child for visitation.
- g) Ask the child directly or subtly, "Which of us do you really want to be with?" and thus place the burden on the child.
- h) Allow a child to take control of visitation whenever he or she wants to do so.
- i) Have the child refer to a future stepparent as "mother" or "father".
- j) Eavesdrop on or interrupt the child's telephone conversations with the other parents.

Pursuant to FCRPP 7(2)(a), if either parent intends to move with the child(ren) from the Commonwealth of Kentucky to another state, or more than 100 miles from the present residence of the child(ren), he or she shall give notice to the other parent at least sixty (60) days prior to such move. Either parent may file a motion for change of custody or time sharing if the other parent is not in agreement with the move, or an agreed order if they are in agreement. No relocation of the child shall occur unless the Court enters an order modifying the status quo.

Pursuant to FCRPP 7(2)(b), if a parent moves from the county where the initial decree or custody order is entered, the Court shall apportion the cost of transportation of the child(ren) between the parents, or may assign the entirety of the costs to one parent, considering the economic circumstances of each parent and any other relevant factors.